

Docket No. 534273-005

S/N 09/345,621

Amendment

the examiners and to discuss how the amended claims are distinguishable over cited prior art patents of record. Specifically, it was argued by the undersigned that the proposed amendments to claims 1, 18 and 20 would distinguish the present invention over the cited combination of U.S. Patent No. 4,422,264 to Harris in view of U.S. Patent No. 5,701,701 to Desrosiers. An agreement was not reached regarding the allowability of such proposed claims.

Discussion of the Present Amendment

Claims 1, 18 and 20 have been amended. Reconsideration of the application is respectfully requested.

Claim 1, 3-13, 18 and 20 are rejected as being obvious over U.S. Patent No. 4,422,264 to Harris in view of U.S. Patent No. 5,701,701 to Desrosiers. Claim 14 is rejected as being obvious over Harris and Desrosiers in further view of U.S. Patent No. 2,226,033 to Walling. Claim 17 is rejected as being obvious over Harris and Desrosiers in further view of U.S. Patent No. 3,378,059 to Young. It is respectfully submitted that the amendments to claims 1, 18 and 20 overcome the above rejections.

Harris discloses a safety gate apparatus that includes a pair of safety gates, riding within a pair of parallel, inverted U-shaped tracks. The safety gates of Harris are coupled together by cables, which are guided between the gates by pulleys positioned above the gates. A disadvantage with the Harris assembly is that, because the cable of the cable and pulley system is flexible, both the first and second safety gates may be lifted *simultaneously*, thereby allowing for easy circumvention of the protections intended to be provided by the Harris assembly. Another disadvantage with the Harris assembly is that the cable and pulley systems add unnecessary complexity and expense to the apparatus.

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To overcome the disadvantages of the Harris assembly, the present invention replaces the cable and pulley system of Harris with a substantially rigid cross-bar pivotally connected between the two gate segments where the cross-bar is free to reciprocate with respect to the substantially U-shaped guide rails in a path that is at least partially horizontal. This cross-bar performs a dual purpose of: a) greatly simplifying the design of the barrier assembly, and b) effectively restricting both of the gate segments from being lifted into their open positions simultaneously.

Accordingly, claim 1 has been amended to be directed to a barrier assembly for protecting a loading platform that comprises:

- a) a pair of parallel guide rails, each shaped generally as an inverted-U, each having a first substantially vertical portion, a second substantially vertical portion opposite the first substantially vertical portion and a substantially horizontal portion interconnecting the first and second substantially vertical portions;
- b) a first gate segment having at least one pair of rollers positioned on opposite lateral sides thereof, each roller being received with a respective one of the guide rails so that the first gate segment is guided by the pair of guide rails.
- c) a second gate segment having at least one pair of rollers positioned on opposite lateral sides thereof, each roller being received within a respective one of the guide rails so that the second gate segment is guided by the pair of guide rails; and
- d) at least one substantially rigid first cross-bar pivotally connected between the first and second gate segments, *wherein the first cross-bar is free to reciprocate with respect to the guide rails in a path that is at least partially horizontal;*

the first gate segment being guided by the pair of guide rails from a barrier position in which the first gate segment is positioned entirely within the first substantially vertical portions of the pair of guide rails to an open position in which the first gate segment is positioned at least partially in the substantially horizontal portions of the guide rails;

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the second gate segment being guided by the pair of guide rails from a barrier position in which the second gate segment is positioned entirely with the second substantially vertical portions of the pair of guide rails to an open position where the second gate segment is positioned at least partially in the substantially horizontal portions of the pair of guide rails; and

the first cross-bar having a length which requires that when the first gate segment is in its barrier position the second gate segment will be in its open position, and vice versa.

It is respectfully submitted that none of the cited prior art references teach or suggest such a structure.

Specifically, none of the prior art references teach the claimed element of at least one substantially rigid cross-bar pivotally connected between the first and second gate segments, *where the first cross-bar is free to reciprocate with respect to the guide rails in a path that is at least partially horizontal.*

As discussed above, Harris fails to disclose a rigid cross-bar pivotally connected between the first and second gate segments. Furthermore, while Desrosiers discloses a substantially rigid cross-bar pivotally connected between first and second gate segments, Desrosiers fails to teach or suggest that this rigid cross-bar is free to reciprocate with respect to the guide rails 32 in a path that is at least partially horizontal. Rather, the rigid cross-bars 20, 22 of Desrosiers are coupled to a pair of stationary support posts 30 by pivot devices, maintaining the cross-bars 20, 22 in a horizontally fixed position with respect to the guide rails 32. This horizontally fixed connection to the stationary support post 30 only allows the cross-bar 20, 22 to pivot to with respect to the support post 30 and guide rails 32 in a seesaw-like manner. Therefore, for at least the reasons given above, it is respectfully submitted that claim 1 as amended is distinguishable over the cited prior references of record and is in condition for allowance.

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Claims 3-14 and 17 depend from claim 1, and therefore, it is respectfully submitted that these claims are also allowable for at least the same reasons as given for claim 1.

Independent claim 18 has been amended to recite that at least one substantially rigid first cross-bar pivotally connected between the first and second gate segments . . . *is free to reciprocate with respect to the guide rails in a path that is at least partially horizontal.* Therefore, it is respectfully submitted that independent claim 18 is also allowable for at least the same reasons as given above for independent claim 1.

Independent claim 20 has been amended to recite that at least one substantially rigid cross-bar pivotally connected between the first and second gate segments . . . is movable to and away from the first and second substantially vertical portions of the guide rails *in a path having a horizontal component.* Therefore, it is respectfully submitted that independent claim 20 as amended is also allowable for at least the same reasons as given above for independent claim 1.

Applicants acknowledge the allowance of independent claim 19.

In light of the foregoing, it is respectfully submitted that claims 1, 3-14 and 17-20, now pending are in condition for allowance. Reconsideration of the withdrawal of the rejections of record is requested.

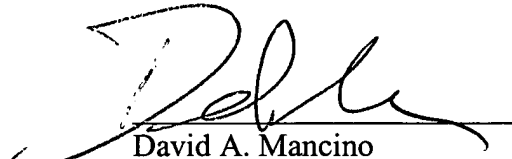
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If the examiner wishes to discuss any aspect of this amendment, please do not hesitate to contact the undersigned at the telephone number provided below.

Respectfully submitted,



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